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PATENT

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April 1, 2006
Date

Jennifer Badley
Jennifer Badley

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Gregory Brown and Marcellino Tanumihardja
Application No. : 09/894,278
Filed : June 27, 2001
Title : MANAGED MESSAGING PLATFORM
Confirmation No. : 5239

Examiner : Liang-che Alex Wang
Art Unit : 2155
Docket No. : 0805-003-003-SEED

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON
FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR 1.181(a)

Sir:

Pursuant to MPEP §711.03(c)(I)(A), Applicant Entity (hereinafter Applicant) hereby requests that the Notice of Abandonment of 31 January 2006 be withdrawn. Applicant makes this request because Applicant never received an Office Action allegedly sent by the USPTO on 27 May 2005.

I. Applicant hereby declares that Applicant never received the 27 May 2005 Office Action, and bases that declaration on at least the following:

- A. According to the declaration of Susan Bollinger, Intake Manager of Berkeley Law and Technology Group, **Berkeley Law and Technology Group acquired a physical file, having Seed docket number 360044.403¹, from Seed Intellectual Group on or about 31 May 2005.** See *Susan Bollinger's Declaration* (attached), *Exhibit 1 highlighted line 3* (referring to a copy of an internal Inventory Log indicating when this file was received).
- B. According to the declaration of Susan Bollinger, Intake Manager of Berkeley Law and Technology Group, **an inventory of the file associated with Seed docket number 360044.403, was conducted on or about 02 June 2005. At that time the file did not include the 27 May 2005 Office Action.** See *Susan Bollinger's Declaration* (attached), *Exhibits 2A² and 2B³.*
- C. Subsequent to the undersigned's office receiving the file from Berkeley Law and Technology group, on or about 07 October 2005, our office took that material and created a new file, internal to our organization, and stamped that file with docket number 0805-003-003-SEED. See *Jennifer Badley's Declaration* (attached).
- D. **A search of the file jacket and docketing record, for our internal docket number 0805-003-003-SEED, was conducted on 07 February 2006. At that time the 27 May 2005 Office Action was not present in the file.** See *Jennifer Badley's Declaration* (attached).
- D. The undersigned's docket record for docket number 0805-003-003-SEED (copy attached) does not show an entry of the 27 May 2005 Office Action. **As proof of the foregoing a copy of the undersigned's docket**

¹ This file was eventually reassigned the docket number appearing in the caption of the instant Petition.

² (Exhibit 2A) a print screen of a Microsoft Word folder entitled "09-894278" of the scanned file contents, (*Note that Susan Bollinger declares that on the print screen the shown "Office Action form" does not refer to the Office Action mailed on 27 May 2005, but instead refers to the Restriction Requirement of 06 December 2004.*)

³ (Exhibit 2B) an internal table entitled "Sienna Group Intake Report" with relevant lines 7 and 8 highlighted, which indicate the status of the file at the time it was inventoried.

record for docket number 0805-003-003-SEED, of 27 August 2005, which would include an entry for the three-month date for the response to the 27 May 2005 Office Action if it had in fact been received by Applicant, is attached. This is "a copy of the docket calendar showing all replies docketed for a date three months from the [alleged] mail date of the non received Office Action". *See Jennifer Badley's Declaration* (attached), *Exhibit 1A*.

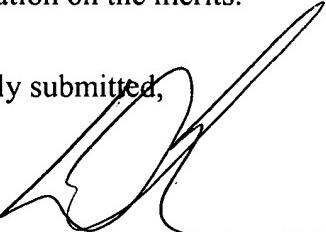
e. The undersigned's docket record for docket number 0805-003-003-SEED does not show an entry of the 27 May 2005 Office Action. As proof of the foregoing a copy of the file index for internal docket number 0805-003-003-SEED, which would include entries for the receipt of the 27 May 2005 Office Action and its 27 August 2005 due date, if the 27 May 2005 Office Action had been received, is also attached. *See Jennifer Badley's Declaration* (attached), *Exhibit 1B*.

SUMMARY

As referenced above, the undersigned has no record of receiving the Office Action dated 27 May 2005. Accordingly, Applicant submits that it never received the Office Action from the Patent Office and that no fee for this petition is necessary. See MPEP §711.03(c)(I). Applicant further requests that the USPTO Withdraw the Holding of Abandonment Based on Failure to Receive the Office Action and further requests a new Office Action for the subject application since the original was not received by the Applicant or its legal representative.

The Examiner is invited to contact the undersigned at (425) 467-2260 with any issues that may advance prosecution of the application on the merits.

Respectfully submitted,



Dale Cook
Attorney
Registration No. 42,434

DRC:jmb

Enclosures:

Postcard

Supporting Documentation:

Susan Bollinger Declaration "Exhibit A"

With attached exhibits 1 and 2

Jennifer Badley Declaration "Exhibit B"

With attached exhibits 1 and 2

Searete LLC

1756 – 114th Ave. S.E., Suite 110

Bellevue, WA 98004

(425) 467-2300

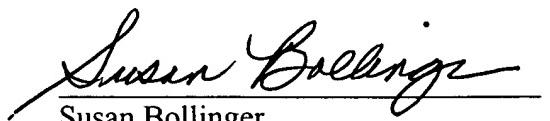
(425) 467-2351 facsimile



DECLARATION OF SUSAN BOLLINGER

I, Susan Bollinger, Intake Manager for Berkeley Law and Technology Group, hereby attest that on or about 31 May 2005 the physical file for application number 09/894,278, having Seed docket number 360044.403, was received from Seed Intellectual Group. See herein attached as **Exhibit 1: Highlighted line 3 of internal inventory log "Sienna Group Inventory"**. I attest that on or about 02 June 2005 an inventory of the contents of the physical file for Seed docket number 360044.403 was conducted. See herein attached as **Exhibits 2A – 2B: (2A) A print screen of a Microsoft Word folder entitled "09-894278" of the scanned file contents.** (Note that the "Office Action form" on the print screen does not refer to the Office Action mailed on 27 May 2005, but instead refers to the Restriction Requirement of 06 December 2004); **(2B) Highlighted lines 7 and 8 of an internal table entitled "Sienna Group Intake Report".** I further attest that on the basis of the foregoing and on my personal knowledge that the Office Action allegedly mailed on 27 May 2005 was not present in the file. The above information is true and correct to the best of my knowledge.

DATED this 7th day of April, 2006.



Susan Bollinger
Intake Manager
Berkeley Law and Technology Group

SIENNA GROUP INVENTORY						
Recd Y/N	Box ▼	Prosecution File #	Date Rec'd Box	Seller File #	Date Rec'd	Previously unidentified (new) asset
Y						
Y	1	360044-401	5/31/2005			US
Y	1	360044-402	5/31/2005			US
Y	1	360044-403	5/31/2005			US
Y	1	360044-403P1	5/31/2005			US



EXHIBIT 1

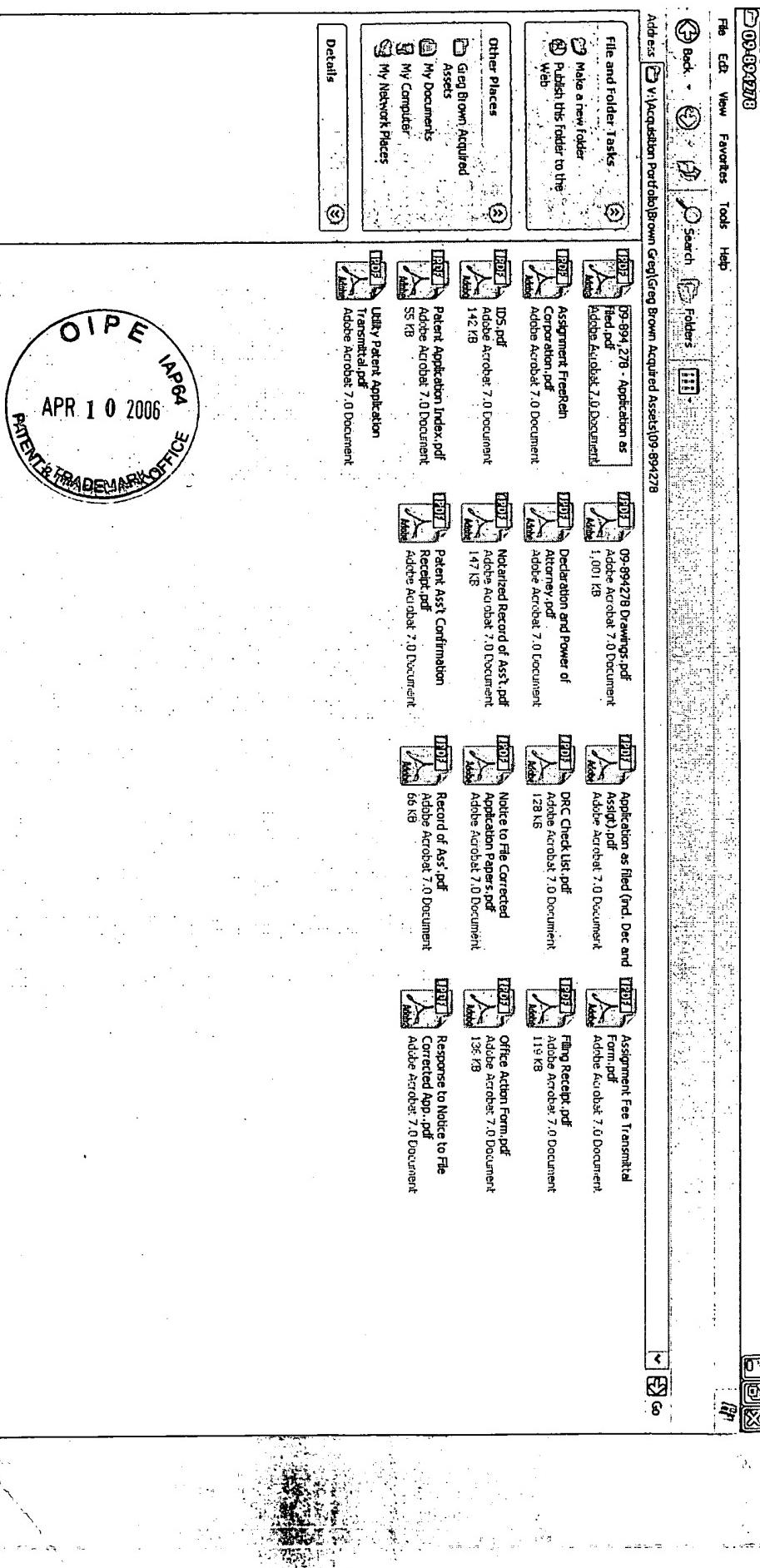


EXHIBIT 2A

Digitized by srujanika@gmail.com

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Last edited 27/2/2008

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Exhibit 2B

Sienna Group	Record	Patent No.	Country	Title	First Inventor	Present Date	Appln No.	Priority Date	Publication Number and Date	Status	Maintenance	Continuity Data	Assignment	Entity? 1 = same for any subsequent transfers	Entity? 2 = first Entity
36-0004-003 Box 1	Pending	US	Managed Marketing Platform										Copy of Assignment from FreePain Corporation to Brown, George A., Marcelino Brown, Gregory A. to Frenzen, Concordia Theodore Recorded 4/22/2006 011144536 Record 04/22/2006 On 1st 28, 2005 attorney D. L. Frenzen, was formerly D. L. Frenzen, updated with Mr. Brown, updated with home language immediately left out of the previous Assignment for signing by Frenzen. Last letter dated 5/12/06 is remitter to Mr. Brown or same ..		



DECLARATION OF JENNIFER BADLEY

I, Jennifer Badley, hereby attest that on or about 07 October 2005, a new file, internal to our organization, was created and stamped with the docket number 0803-003-003-SEED, from the material of the file associated with Seed docket number 360044.403. I further attest that on 7 February 2006, I conducted a search of the file jacket and docketing record for application number 09/894,278, having internal docket number 0805-003-003-SEED and confirmed that the 27 May 2005 Office Action was not received. See attached herein, as **Exhibit 1A, a true and correct copy of the docket record of 27 August 2005, which would include an entry for the three-month due date for the response to the Office Action if it had in fact been received; and Exhibit 1B, a true and correct copy of the file index for docket number 0805-003-003-SEED, which would include entries for the receipt of the 27 May 2005 Office Action and its 27 August 2005 due date, if the Office Action had been received.** I further attest that on the basis of the foregoing and on my personal knowledge that the Office Action allegedly mailed on 27 May 2005 was not present in the file. The above information is true and correct to the best of my knowledge.

DATED this 1st day of April, 2006.

Jennifer Badley
Jennifer Badley

http://isf_share/shared_documents/Patents Filed-Active Drafts/Data Architecture-003/0805-003-003-SEED ManagedMessagingPlatform/Declaration-JenniferBadley.doc

EXHIBIT B

August 27, 2005

Saturday



August 2005

S	M	T	W	T	F	S
	1	2	3	4	5	6
	7	8	9	10	11	12
	14	15	16	17	18	19
	21	22	23	24	25	26
	28	29	30	31		

September 2005

S	M	T	W	T	F	S
	1	2	3			
	4	5	6	7	8	9
	11	12	13	14	15	16
	18	19	20	21	22	23
	25	26	27	28	29	30

7 am

8 00

- ② 0404-003-028-000000 Auto Purge of Serial Use Devices - 60 days to DDL to file foreigns (US filed on 10/26/04)

9 00

- ② 0404-003-009B-000000 Enhanced User Assistance - 60 days to DDL to file foreigns (US filed on 10/26/04)

- ② 0404-003-009A-000000 Enhanced User Assistance - 60 days to DDL to file foreigns (US filed on 10/26/04)

10 00

11 00

12 pm

1 00

2 00

3 00

4 00

5 00

6 00

Exhibit 1A

USPTO FILE INDEX:



Docket #: 0805-003-003-SEED
360044.403

Date Filed: June 27, 2001

TITLE: MANAGED MESSAGING PLATFORM

Inventors: Gregory Brown and Marcellino Tanumihardja

USAN: 09/894,278

Examiner: Liang Che A. Wang Telephone: (#)

Art Unit: 2155 Confirmation #: 5239

File History: Provisional App. 60/282,381 filed on April 5, 2001

Assignment Recorded on: June 27, 2001 at Reel 011946, Frame 0546 to Freerein Corporation
April 22, 2005 at Reel 015937, Frame 0330 to Gregory Brown

Tab	Documents	Mailed from USPTO	Date Due to USPTO	Date Sent to USPTO
1.	Utility Application (71 pages); 42 sheets of drawings (35 Figures); w/Dec., POA, and Assignment; Request NOT to publish			06/27/01
2.	Notice to File Corrected Application Papers (Drawings)	08/17/01	10/17/01	
3.	Filing Receipt (Correct)	08/17/01		
4.	Response to Notice to File Correct Application Papers; Substitute Drawings; and Request for Drawing Change			08/31/01
5.	IDS; PTO-1449; 3 cited references			09/19/01
6.	Notice of Recordation of Assignment; PTO-1595; and Assignment	09/12/01		
7.	Updated Filing Receipt	10/11/01		
8.	Restriction Requirement	12/06/04	01/06/05	
9.	Check; PTO/SB/21; PTO/SB/17; PTO/SB/22 and Response to Restriction Requirement			04/06/05
10.	Assignment Filed Electronically			04/22/05
11.	Notice of Recordation of Assignment	04/25/05		
12.	Postcard; Check; Form PTO-1595 Assignment Recordation Cover Sheet; Copy of Assignment			01/04/06
13.	Postcard; Post-Filing Transmittal; Statement Under 37 CFR 3.73(b); Power of Attorney to Prosecute Applications Before the USPTO; Assignment of Patent Rights			01/04/06
14.	Notice of Acceptance of Power of Attorney	01/12/06		
15.				
16.				
17.				

Last Updated on 01/18/06 by skl

http://isf_share/Shared Documents/Patents Filed-Active Drafts/Data Architecture-003/0805-003-003-SEED ManagedMessagingPlatform/file index.doc

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